

**TIP RATE DETERMINATION AGREEMENT
(Gaming Industry)**

between

Department of the Treasury-Internal Revenue Service

and

_____ [Name of Employer]

_____ (Taxpayer-Employer's name, address, and identifying number) ("Employer") and the _____ District Director of Internal Revenue ("District Director") hereby agree to the following Tip Rate Determination Agreement ("Agreement" or "Gaming TRDA").

All employees who receive tips are required (1) to keep contemporaneous and accurate records of the tips received, (2) to report the tips received to their employer at least monthly, and (3) to report those tips on their federal income tax returns.

This document has been developed pursuant to the Market Segment Understanding (MSU) Program. The purpose of this document is to implement a program (1) to ensure maximum compliance by the employees of the Employer with those provisions of the Internal Revenue Code of 1986, as amended, relating to tip income; and (2) to avoid disputes under section 3121(q) of the Code. This program will minimize the burden on the Employer resulting from tip compliance programs of the District Director and reduce the enforcement costs of the District Director.

The parties therefore agree as follows:

I. DEFINITIONS

A. District Director means the District Director of Internal Revenue for _____ [insert name of District] or designee.

B. Gaming establishment means a casino or other building, vessel, or room used for gambling. It includes land and water based establishments, bingo parlors, card rooms, slot machine and keno facilities, and any similar place where wagering is conducted.

C. Employee means an individual who

1. is described in an Occupational Category defined in section I.E.,

2. has completed more than 30 consecutive days of service with the Employer, and

3. regularly and routinely receives tips (directly or indirectly) of at least \$20 a month during the course of the Employee's employment.

D. Employer means _____ [insert name].

E. Occupational Category means a category listed in Attachment A.

F. Participating Employee means an Employee who--

1. gives to the Employer a signed Tipped Employee Participation Agreement ("TEPA") (including, but not limited to, the language of Attachment B), indicating participation in the tip reporting program, and

2. in accordance with this Agreement, reports tips to the Employer, as required by law, at or above the tip rate established for the Employee's Occupational Category.

At the option of the Employer, a Participating Employee may also include a tipped employee with 30 or fewer days of service who has given the Employer a signed TEPA.

G. Tip Rate means the applicable rate described in Section III.

II. COMMITMENT OF EMPLOYER

A. Records maintenance requirements. While this Agreement is in effect, and in addition to records otherwise required to be maintained, the Employer agrees to maintain the following records:

1. Employee records. For each Employee, the Employee's name and social security number; the Employee's Occupational Category or Categories (as defined in section I.E.); the Employee's reported tips; and the Employee's shift(s) and/or hours. For food and beverage employees, the Employee's charged tips (if any) and sales (if appropriate),

2. Gaming establishment records. If the Employer is not otherwise required, by state statute or regulation, to

maintain records of tips received by gaming establishment Employees,

a. For each instance of toke and chip-cashing, the dollar amount of tokes and chips presented to the cage for cashing by the toke committee (or other representatives of gaming establishment Employees), and

b. For each instance of toke and chip-cashing, a list of the tip splits furnished to the Employer by its Employees or the toke committee (or other representatives of gaming establishment Employees).

3. Food and beverage operations records. If the Occupational Categories defined in section I.E. include food or beverage servers,

a. Gross receipts subject to food or beverage tipping, and

b. Charge receipts showing charged tips.

4. Tip rates records. For each Occupational Category, all records of data used to determine the tip rates.

The Employer must retain the records listed in this section II.A. for at least 4 years after the April 15 following the calendar year to which the records relate.

B. Requirements for furnishing information. The Employer will furnish to the District Director the following documents:

1. Annual report of Employees.

a. General rule. For each Employee who is a nonparticipating Employee on the last day of the calendar year, an annual report showing the Employee's name and social security number; the Employee's Occupational Category or Categories (as defined in section I.E.); and the Employee's shift(s) and hours. The report may list all Employees as long as the required information is included for all nonparticipating Employees. The report is due on March 31 following each calendar year.

b. Exception. No report is required for a calendar year if the Employees reported tips for the calendar year at a rate equal to or greater than the rates established under section III. of this Agreement.

2. Form 8027. If the Occupational Categories defined in section I.E. include Employees of one or more food or beverage establishments, a copy of the Forms 8027, Employer's Annual Information Return of Tip Income and Allocated Tips, filed for

those establishments with the service center. The copies are due on the last day of February following each calendar year.

C. Requirements for making records available at the request of the District Director. At the request of the District Director, the Employer will furnish any of the records identified in section II.A.

D. Requirements for filing returns and paying and depositing taxes. The Employer will comply with the requirements for filing all required federal tax returns and paying and depositing all federal taxes.

III. TIP RATES

A. Methods of measuring tips. Depending on the Occupational Category and the Employer's business practices, tips can be measured in different ways. This Agreement contemplates the following types of measurements:

1. Actual tips. Actual tips generally apply to Employees in Occupational Categories where pooling of tips is common. Generally, they pool the tips collected during a shift and split the total among the Employees of the Occupational Category who worked the shift.

2. Tip rates. Tip rates generally apply to Employees in Occupational Categories where pooling of tips is not common. The rate may be a percentage of sales, a dollar amount per hour or shift, a dollar amount per drink served, a dollar amount per dealing hour, or other accurate basis of measurement.

B. Actual tips. Employees in Occupational Categories where tips are pooled and split must report the actual amount of tips they receive. The tip rate method of reporting tips is not available for these Employees.

C. Tip rates.

1. Methods for determining tip rates. The Employer will determine tip rates for the Occupational Categories based on information available to the Employer, historical information provided by the District Director, and generally accepted accounting principles. The rates will specify whether the tips are received as a percentage of sales, a dollar amount per hour or shift, a dollar amount per drink served, a dollar amount per dealing hour, or on another basis.

2. Initial tip rates. The initial tip rate approved for each Occupational Category is shown on Attachment A. Where Employees pool and split tips, the "Actual tips" method will be indicated on Attachment A.

D. Determination of subsequent tip rates and Occupational Categories.

1. Annual review. The Employer will review annually, on a calendar year basis, the tip rates assigned to its Occupational Categories. In connection with this review, the Employer may review its Occupational Categories. The initial rates for each Occupational Category shown on Attachment A will apply to the first full calendar year of this Agreement.

2. Procedures.

a. Employer submission. If the Employer believes that a revision of one or more rates or Occupational Categories is appropriate, the Employer will submit proposed revisions to the District Director by September 30. If the Employer fails to submit a proposed rate revision by September 30, the Employer will be treated as having submitted the rate in effect for the current year.

b. District Director review. The District Director will review the proposed rates and notify the Employer in writing of its approval or disapproval by November 30. If the District Director does not approve one or more proposed rates, the existing rate or rates will be continued until no later than the last day of the following February. If the Employer and the District Director are unable to agree upon a rate or rates by the last day of the following February, this Agreement will terminate pursuant to section V.C.

3. Effective date of revised rates and Occupational Categories. Approved revised rates and Occupational Categories for a calendar year will become effective on the later of (1) January 1 of the calendar year, or (2) the first day of the month following the date the Employer and the District Director agree upon a revised rate.

IV. COMMITMENT OF DISTRICT DIRECTOR

A. Participating Employee. The District Director agrees that the Internal Revenue Service will not examine a Participating Employee's tip income for any period for which a TEPA is in effect, if the Employee reports tips to the Employer at or above the tip rate established for the Employee's Occupational Category.

B. Employer.

1. General rule. Except as provided in section IV.B.2. below, any section 3121(q) notice and demand issued to the Employer by the District Director with respect to tips received by Employees in the Occupational Categories defined in

section I.E. shall be based solely on amounts reflected on one or more of the following forms:

a. Form 4137, Social Security and Medicare Tax on Unreported Tip Income, filed by an Employee with his or her Form 1040, or

b. Form 885-T, Adjustment of Social Security Tax on Tip Income Not Reported to Employer, prepared at the conclusion of an employee tip examination.

2. Special rules.

a. Termination. In the event of a termination under section V., the general rule in section IV.B.1. will apply with respect to tip income actually received by (or deemed under section 3121(q) of the Code to have been paid to) Employees during the period from the effective date of this Agreement until the effective date of termination.

b. Ongoing Tip Examination or TRDA Validation. This Agreement will not affect any tip examination or TRDA validation of the Employer that was begun before this Agreement is entered into.

c. Compliance review. The District Director may evaluate the Employer and its Participating Employees for compliance with the provisions of this Agreement.

V. TERMINATION

A. Termination by Employer. The Employer may terminate this Agreement at any time.

B. Termination by District Director. The District Director may terminate this Agreement if:

1. Lack of Employee participation. At the end of any calendar year, less than 75 percent of the Employees in the Occupational Categories defined in section I.E. are Participating Employees,

2. Failure of Employer to comply with section II. The Employer fails to meet any of the requirements of section II., or

3. Other. This Agreement can be revoked if the Service is involved in an administrative or judicial examination, investigation, or proceeding involving the Employer or a related party, whether the examination, investigation, or proceeding is initiated before or during the Employer's participation in the Agreement.

C. Termination upon failure of parties to agree to revision of tip rates. If the Employer and the District Director fail to agree to a revision of any of the tip rates under the procedures set forth in section III.D.2.b., this Agreement will terminate.

D. Notice of termination and effective date. Any termination under section V.A. or B. must be in writing and will be effective on the first day of the calendar quarter following the date of the notice.

VI. MISCELLANEOUS

A. Effective date of agreement. This Agreement is effective when executed by the District Director.

B. Examinations and/or inspections of books and records. The inspection of books of account or records pursuant to a tip examination or compliance review will not preclude or impede (under section 7605(b) of the Code, section 530(a)(2) of the Revenue Act of 1978, or any administrative provisions adopted by the Service) a later examination of a return or inspection of books of account or records with respect to any tax period involved in the tip examination or compliance review. The Service need not comply with any applicable procedural restrictions (for example, providing notice under section 7605(b)) before beginning such examination or inspection.

C. Notices. All correspondence pertaining to this Agreement must be sent to the parties to this Agreement at the addresses stated below, unless notified in writing of a change of address. In the event of a change of address, all correspondence must be sent to the new address. All notices are deemed to be sent or submitted on the date of the postmark stamped on the envelope or, in the case of a notice sent by certified mail, the sender's receipt.

D. Authority. The Employer represents that it has the authority to enter into this Agreement.

E. Statutory changes. The Commissioner may terminate this Agreement at any time following a significant statutory change in the FICA taxation of tips.

F. Sunset provision. The Commissioner of Internal Revenue may terminate prospectively the Tip Rate Education Program or this TRDA after June 25, 2002.

VII. PAPERWORK REDUCTION ACT

The collections of information contained in this document have been reviewed and approved by the Office of Management and

Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507(c)) under control number 1545-1530.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number. The collections of information in this document are in sections II.A, II.B., II.C., III.D., V.A., and V.D. This information is required to comply with sections 6053(a) and 6001 of the Internal Revenue Code and to assist the Internal Revenue Service in its compliance efforts. This information will be used to monitor the Employer's performance under the Agreement. The collections of information are required to obtain the benefits available under the Agreement. The likely respondents are business or other for-profit institutions.

The estimated total annual reporting and/or recordkeeping burden is 4,342 hours.

The estimated annual burden per respondent/recordkeeper varies from 12 hours to 99 hours, depending on individual circumstances, with an estimated average of 43 hours. The estimated number of respondents and/or recordkeepers is 100.

The estimated annual frequency of responses (used for reporting requirements only) is on occasion.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by section 6103 of the Code.

VIII. SIGNATURES

By signing this Agreement, the parties certify that they have read and agreed to the terms of this document, including Attachments A and B.

EMPLOYER

INTERNAL REVENUE SERVICE

(Name of Employer)

_____ District

(Signature)

(Signature)

BY: _____

BY: _____
(Director's Name)

TITLE: _____

TITLE: District Director

ADDRESS:

ADDRESS:

(Street address - Headquarters)

(Street address)

(City, state, ZIP code)

(City, state, ZIP code)

DATE: _____

DATE: _____

TRDA (Gaming Industry)

Attachment A

[sample format]

Occupational Categories

Initial Tip Rates

Dealers

actual tips

Food servers

__% of sales

Cocktail servers

__% of sales

Bartenders

_ % of sales

Room service food servers

_ % of sales

Bell persons

\$ /

Valets

\$ /

TRDA (Gaming Industry)

Attachment B

TIPPED EMPLOYEE PARTICIPATION AGREEMENT

I am an employee of _____
_____ and wish to participate in my
employer's tip reporting program.

In accordance with a Tip Rate
Determination Agreement (Gaming Industry) between my employer and
the _____ District Director of Internal Revenue, I
agree to report my tips to my employer, as required by law, at or
above the tip rate established by my employer and approved by the
District Director for my Occupational Category.

EMPLOYEE

Name (printed): _____

Signature: _____

Home address: _____

Social Security Number: _____

DATE: _____